
State Water Resources Control Board

ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR U.S. ENVIRONMENTAL PROTECTION AGENCY VESSEL GENERAL PERMIT

PROJECT: Vessel General Permit (VGP)

APPLICANT: Mr. David Smith
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
Mail Code: WTR-5
San Francisco, CA 94105

This Order responds to your request, received on December 8, 2011, on behalf of the U.S. Environmental Protection Agency (USEPA) for a water quality certification (Certification) for the VGP. The 2013 VGP is a Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit that authorizes, on a nationwide basis, discharges incidental to the normal operation of commercial vessels that are non-military and non-recreational, greater than or equal to 79 feet in length. The 2013 VGP replaces the 2008 VGP, which expires in December 2013.

ACTION:

	Order for Standard Certification		Order for Denial of Certification
X	Order for Technically Conditioned Certification		Order for Waiver of Waste Discharge Requirements

AUTHORIZATION:

This Certification conditionally certifies the VGP, based on the proposed VGP issued by USEPA on December 8, 2011, in Federal Register Volume 76, Number 236 that regulates the discharge of 27 vessel discharge streams by establishing effluent limitations including Best Management Practices (BMPs).

Table 1: Vessel Waste Discharges Eligible for Coverage under the VGP

No.	Discharge	No.	Discharge
1	Deck Runoff and Above Water Line Hull Cleaning	15	Graywater
2	Bilgewater/Oily Water Separator Effluent	16	Motor Gasoline and Compensating Discharge
3	Ballast Water	17	Non-Oily Machinery Wastewater
4	Anti-Fouling Leachate From Anti-Fouling Hull Coatings/Hull Coating Leachate	18	Refrigeration and Air Condensate Discharge
5	Aqueous Film Forming Foam (AFFF)		
6	Boiler/Economizer Blowdown	19	Seawater Cooling Overboard Discharge
7	Cathodic Protection	20	Seawater Piping Biofouling Prevention
8	Chain Locker Effluent	21	Boat Engine Wet Exhaust
9	Controllable Pitch Propeller and Thruster Hydraulic Fluid and other Oil Sea Interfaces	22	Sonar Dome Discharge
10	Distillation and Reverse Osmosis Brine	23	Underwater Ship Husbandry
11	Elevator Pit Effluent	24	Welldeck Discharges
12	Firemain Systems	25	Graywater Mixed With Sewage
13	Freshwater Layup	26	Exhaust Gas Scrubber Washwater Discharge
14	Gas Turbine Wash Water	27	Fish Hold Effluent

For each discharge type, the VGP establishes effluent limitations pertaining to the constituents found in the effluent. The VGP also establishes BMPs designed to decrease the volume of constituents entering the waste stream. Even though a vessel may not produce all of these discharges, a vessel owner or operator is responsible for meeting the applicable effluent limitations and conditions for every listed waste type that the vessel discharges. The VGP includes effluent limitations to control a variety of pollutants, which have been classified into seven types:

Table 2: Types of Pollutants Regulated by the VGP

Pollutant Groups	Examples
Aquatic Nuisance Species (a.k.a., aquatic invasive species, or nonindigenous aquatic species)	Non-native Jellyfish, Zebra Mussels, Asian Clams, etc.
Most Conventional Pollutants	Biochemical Oxygen Demand, Oil and Grease, pH, Total Suspended Solids, etc.
Metals	Iron, Nickel, Zinc, Copper, Bronze, Silver, etc.
Nutrients	Phosphorous and Nitrogen
Pathogens	E. Coli and Fecal Coliform
Other Toxic Pollutants	Anti-foulants, rust inhibitors, epoxy coating materials, etc.
Non-Conventional Pollutants with Toxic Effects	Phthalates, Phenol, Tetrachloroethylene, Chlorine Residual, Chlorides, etc.

The VGP contains effluent limitations to control these pollutants which are potentially constituents of industrial waste, chemical waste, or garbage discharged from vessels.

The VGP establishes technology-based requirements for certain discharges from specific classes of vessels. Further, it provides water quality-based effluent limitations that incorporate requirements for impaired water bodies. Under the VGP, certain discharge types are limited or prohibited in waters protected for conservation purposes (e.g., national marine sanctuaries and national parks). The VGP also establishes specific corrective actions as well as inspections, monitoring, record keeping, and reporting requirements. The VGP covers vessel discharges into waters of the United States in all states and territories.

The VGP requires submission of a Notice of Intent (NOI) for vessels that are 300 gross tons or greater or have a ballast water capacity of at least eight cubic meters. All other vessels subject to the VGP are not required to submit an NOI.

To comply with the public notice requirements of California Code of Regulations, title 23, sections 3858 and 3861 governing the California's Water Quality Certification Program, a public notice of USEPA's application for certification for the sVGP was posted on the State Water Resources Control Board's (State Water Board) Web site on March 28, 2012. The comment period on the application closed on May 14, 2012.

STANDARD CONDITIONS:

1. This Certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, section 3867 et seq. (Auth: Wat. Code, §§ 1058, 13160, 13160.1, 13321; Cal. Code Regs., tit. 23, § 3860. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
2. This Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to California Code of Regulations, title 23, subsection 3855(b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought. (Auth: Wat. Code, §§ 1058, 13160, 13160.1, 13321; Cal. Code Regs., tit. 23, § 3860. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
3. This Certification is conditioned upon total payment of any fee required under California Code of Regulations, title 23, chapter 28 and owed by the applicant. (Auth: Wat. Code, §§ 1058, 13160, 13160.1, 13321; Cal. Code Regs., tit. 23, § 3860. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

ADDITIONAL CONDITIONS:

1. USEPA shall provide the State Water Board access to its database to obtain information on vessels that have submitted NOIs. (Auth: Wat. Code, §§ 13267, 13383. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
2. All discharges are prohibited in state Water Quality Protection Areas as defined in the Public Resources Code sections 36700 – 36900 inclusive, and the California Ocean Plan, except those discharges that occur in transit associated with vessel traffic separation lanes. (Auth: Pub. Resources Code, § 36710. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
3. Large passenger vessel and cruise ship graywater discharges are prohibited in state waters. Graywater discharges from oceangoing vessels that weigh 300 gross tons or more are also prohibited if such vessels have sufficient holding capacity. Any co-mingling of black water (sewage) and graywater waste streams will be considered graywater for purposes of these conditions as stated in section 2.2.25 of the 2013 VGP. (Auth: Pub. Resources Code, § 72400 et seq. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
4. Vessel discharges must comply with all requirements and discharge prohibitions set forth in the California Clean Coast Act of 2005. (Auth: Pub. Resources Code, § 72400 et seq. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
5. None of the 27 discharges covered by the VGP may contain hazardous waste as defined in the California Code of Regulations, title 22, section 66261 and Water Code section 13173, as well as hazardous substances listed in Attachment 2 of this Order, which includes bilge water. Additionally, the following wastes are prohibited from being discharged: noxious liquid substance residues, used or spent oil, garbage or trash/plastic (California Basin Plans), sewage sludge, photo-developing wastes, dry cleaning wastes, and medical wastes. The vessel owner or operator, upon entering state waters for the first time in the 2013 VGP cycle, must submit a letter electronically to the State Water Board, Division of Water Quality, NPDES Unit, certifying that hazardous wastes as defined under California law, and prohibited wastes, will not be discharged from its vessel or vessels. (Auth: See generally, statewide and regional water quality control plans; 33 U.S.C. § 1313; Pub. Resources Code, § 72420.2; Wat. Code, §§ 13140, 13173, 13240, 13267, 13383; Cal. Code Regs., tit. 22, § 66261. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

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6. There must be no oily sheen from any discharge, and oil and grease must not exceed 15 milligrams per liter (mg/L) from any discharge as stated in section 2.1.4 of the VGP. (Auth: See generally, statewide and regional water quality control plans; 33 U.S.C. § 1313; Wat. Code, §§ 13140, 13240. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

7. Detergents must not be used to disperse hydrocarbon sheens in any waste streams. To ensure this practice is implemented for all state waters, and additionally to protect drinking water sources, such as sources in the Sacramento and San Joaquin Delta, methylene blue active substances (MBAS) should not exceed 0.5 mg/L in any waste streams being discharged, applicable to all waterbodies. (Auth: See generally, statewide and regional water quality control plans; 33 U.S.C. § 1313; Wat. Code, §§ 13140, 13240. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
8. Vessel discharges must comply with California State Lands Commission (SLC) requirements for ballast water discharges and hull fouling to control and prevent the introduction of nonindigenous species, found in Public Resources Code, section 71200 et seq. and California Code of Regulations, title 2, division 3, chapter 1, articles 4.5 through 4.8, inclusive. (Auth: Pub. Resources Code, § 71200 et seq. and Cal. Code Regs, tit. 2, div. 3, ch. 1, arts. 4.5 through 4.8. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
9. The SLC's jurisdiction lies over vessels that are 300 gross registered tons and above that carry or are capable of carrying ballast water. Vessels entering state waters that fall within this description shall complete the SLC forms found in the following Marine Invasive Species Program (MISP) Compliance and Reporting Documents page:

http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Compliance_Rptng_Docs.html

Forms are subject to change. Please use the most updated forms. (Auth: Pub. Resources Code, § 71200 et seq. and Cal. Code Regs, tit. 2, div. 3, ch. 1, arts. 4.5 through 4.8. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

10. Propeller cleaning is allowed until the biofouling management regulations for vessels are adopted by the SLC and become effective. After the SLC biofouling management regulations become effective, propeller cleaning is allowed as specified in those regulations. All other in-water hull cleaning is prohibited unless conducted using the best available technologies economically feasible, as determined by the State Water Board in consultation with SLC staff. This prohibition includes underwater ship husbandry discharges (VGP Discharge #23). (Auth: Pub. Resources Code, § 71200 et seq. and Cal. Code Regs, tit. 2, div. 3, ch. 1, arts. 4.5 through 4.8. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
11. If the ballast water receives chlorination treatment, the discharge to the ocean must not exceed a maximum level of 60 micrograms per liter (µg/L) of total residual chlorine, and the discharge to inland waters, enclosed bays, and freshwaters must not exceed a maximum level of 19 µg/L of total residual chlorine. (The Gold Book, U.S. EPA 440/5-86-001, May 1986.) (Auth: See generally, statewide and regional water quality control plans; 33 U.S.C. § 1313; Wat. Code, §§ 13140, 13240, 13377; Cal. Code Regs., tit. 23, § 2235.2. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

12. Vessel discharges must comply with the applicable statewide water quality control plans and regional water quality control plans (Basin Plans). Attachment 3 lists the effluent limitations based on the narrative water quality objectives cited in these plans that must be met in the receiving water. (Auth: See generally, statewide and regional water quality control plans; 33 U.S.C. § 1313; Wat. Code, §§ 13140, 13240. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
13. A monitoring study shall be conducted in order to provide to the State Water Board adequate representative characterization of the vessel discharges. This information will be used to determine if any future changes to the conditions are necessary for compliance with the California Ocean Plan numeric objectives, Basin Plan numeric objectives, and the California Toxics Rule criteria. One of two options, either an individual monitoring program, or participation in a collaborative regional/group monitoring program, must be selected for compliance. The vessel owner or operator, upon entering State waters for the first time in the 2013 VGP cycle, must submit a letter electronically to the State Water Board indicating the selection of one of the two options. See Attachment 4 for more information on these two options.

If a vessel does not to discharge any of the waste streams required in the study (Table 1) upon arrival at a California port, the State Water Board must be notified, and no monitoring study would be required.

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(Auth: Wat. Code, §§ 13267, 13383. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

14. Allowance for emergency conditions: In the case of a sudden unexpected situation which involves a clear and imminent danger to life, health or property, the requirements of this Certification are suspended to the extent that those requirements would otherwise be violated. Any suspension of the requirements of this Certification is only permitted as long as the emergency conditions persist. In such cases the vessel owner or operator shall report to the State Water Board the emergency conditions requiring the violation of Certification conditions, the specific conditions that were violated, the duration of the violation, and nature of discharges during that emergency period and the location of the emergency discharge. This report shall be transmitted to the State Water Board within 24 hours after the emergency conditions cease. In the event that the State Water Board determines that the circumstances do not constitute an emergency, the State Water Board may seek appropriate investigatory or enforcement action pursuant to Administrative Condition No. 6. (Auth: Pub. Resources Code, § 21080; Wat. Code, § 1058; Cal. Code Regs., tit. 14, § 15359. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

Submit report electronically to calvgp_cert@waterboards.ca.gov

15. This Order includes Attachments 1-4. Following is a description of these attachments:

- Attachment 1 – Signatory Requirements
- Attachment 2 – List of Chemical Names and Common Names for Hazardous Wastes and Hazardous Materials, Title 22, Chapter 11, Appendix X, California Code of Regulations
- Attachment 3 – Effluent Limitations Based on Narrative Objectives in the California Ocean Plan and Basin Plans
- Attachment 4 – Monitoring and Reporting

ADMINISTRATIVE CONDITIONS:

1. This Certification shall expire five (5) years from the date of issuance of the 2013 VGP unless USEPA administratively extends it. (Auth: Wat. Code, § 13377; Cal. Code Regs., tit. 23 §§ 2235.2, 3861. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
2. This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification. (Auth: Wat. Code, § 13002. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
3. USEPA shall notify the State Water Board within 24 hours of any noncompliance that may impact the beneficial uses of waters of the state. The notification shall include the volume and type of materials discharged and recovered, measures used to stop and contain the discharge, and measures implemented to prevent future discharges. (Auth: Pub. Resources Code, § 21080; Wat. Code, § 1058; Cal. Code Regs., tit. 14, § 15359. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
4. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to USEPA. If the VGP fails to comply with the State Water Quality Control Plans and Policies, or any other appropriate requirement of the state law, the State Water Board may add to or modify the conditions of this Certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act. (Auth: Wat. Code, §§ 1058, 13160, 13160.1, 13321; Cal. Code Regs., tit. 23, § 3860. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)
5. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under state or federal law. For purposes of the Clean Water Act section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order. (Auth: 33 U.S.C. § 1341; Wat. Code, div. 7, ch. 5 (§§ 13300-13365, inclusive), and ch. 5.5 (§§ 13370-13389, inclusive). This condition

cannot be made less stringent without violating the requirements of state law, including water quality standards.)

6. In response to a suspected violation of any condition of this Certification, the State Water Board may require a vessel owner or operator to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. (Auth: Wat. Code, §§ 13267, 13383. This condition cannot be made less stringent without violating the requirements of state law, including water quality standards.)

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION:

Based on a review of the VGP information submitted, the State Water Board staff determined that the issuance of this Certification and the activities described herein meet the exemption criteria under California Code of Regulations, title 14, section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment). Additionally, State Water Board staff concludes that no exceptions apply to the activities approved by this Certification. The State Water Board has filed a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 for this Order.

STATE WATER BOARD CONTACT PERSONS:

If you have any questions or comments, please contact Mr. Bill Orme, Chief of our Water Quality Certification Unit, at (916) 341-5464 (borme@waterboards.ca.gov), or Dr. Maria de la Paz Carpio-Obeso, Chief of our Ocean Standards Unit, at (916) 341-5858 (mcarpio-obeso@waterboards.ca.gov).

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges as described in the VGP comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) if all of the conditions listed in this Certification are met. These discharges are also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the California Water Code section 13000 et seq.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the VGP, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and the Regional Water Quality Control Board Water Quality Control Plans.

Thomas Howard
Executive Director

Date